



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2009 REGULAR SESSION

HOUSE BILL NO. 369

MONDAY, MARCH 2, 2009

The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 434.650 is amended to read as follows:

(1) A person who, with intent to defraud the issuer, a participating party, a person, or organization providing money, goods, services, or anything else of value, or any other person:

(a) Uses for the purpose of obtaining money, goods, services, or anything else of value a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired, or revoked; or

(b) Obtains money, goods, services, or anything else of value by representing without consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued; or

(c) Uses a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired, or revoked, as authority or identification to cash or attempts to cash or otherwise negotiate or transfer a check or other order for payment of money, whether or not negotiable, if said negotiation or transfer or attempt to negotiate or transfer would constitute a crime under KRS 514.040 or 516.030; or

(d) Deposits into his account or any account, via an automated banking device, a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document not his lawful or legal property,

is guilty of a Class A misdemeanor, if the value of all money, goods, services, or other things of value obtained in violation of this section **over a six (6) month period is less than five hundred dollars (\$500)**, ~~does not exceed one hundred~~

dollars (\$100) in any six (6) month period; and is guilty of] a Class D felony if such value is five hundred dollars (\$500) or more but is less than ten thousand dollars (\$10,000), or a Class C felony if such value is ten thousand dollars (\$10,000) or more exceeds [one hundred dollars (\$100) in any six (6) month period].

(2) A person who receives money, goods, services, or anything else of value as a result of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document so deposited was false, fictitious, forged, altered, or counterfeit or that the above described deposited item was not his lawful or legal property, violates this subsection and is subject to the penalties set forth in subsection (1) of this section.

(3) Knowledge of revocation shall be presumed to have been received by a cardholder four (4) days after it has been mailed to him at the address set forth on the credit or debit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred (500) miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten (10) days after mailing by registered or certified mail.

➔Section 2. KRS 434.655 is amended to read as follows:

(1) A cardholder who fraudulently uses a credit or debit card to obtain money, goods, services, or anything else of value after said cardholder has reported to the issuer said credit or debit card lost, as stolen, or not received is deemed to have used said credit or debit card in order to defraud the issuer; and said cardholder shall be guilty of a Class A misdemeanor[is subject to the penalties set forth in subsection (1) of KRS 434.730] if the value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is less than five

1 **hundred dollars (\$500), a Class D felony**~~[does not exceed three hundred dollars~~
 2 ~~(\$300) in any six (6) month period; and is subject to the penalties set forth in~~
 3 ~~subsection (2) of KRS 434.730,]~~ if such value **is five hundred dollars (\$500) or**
 4 **more but is less than ten thousand dollars (\$10,000), or a Class C felony if such**
 5 **value is ten thousand dollars (\$10,000) or more**~~[is three hundred dollars (\$300) or~~
 6 ~~more in any six (6) month period]~~.

- 7 (2) A cardholder who, after using a credit or debit card, fraudulently reports to the
 8 issuer that such usage or transaction was not made by said cardholder, or that said
 9 credit or debit card was lost, stolen, or not received at the time of such usage or
 10 transaction, in order to defraud the issuer, the cardholder, or any other person in
 11 connection with said usage, **shall be guilty of a Class A misdemeanor**~~[is subject to~~
 12 ~~the penalties set forth in subsection (1) of KRS 434.730,]~~ if the value of all money,
 13 goods, services, or other things of value furnished in violation of this section **over a**
 14 **six (6) month period is less than five hundred dollars (\$500), a Class D felony if**
 15 **such value is five hundred dollars (\$500) or more but is less than ten thousand**
 16 **dollars (\$10,000), or a Class C felony if such value is ten thousand dollars**
 17 **(\$10,000) or more**~~[does not exceed three hundred dollars (\$300) in any six (6)~~
 18 ~~month period; and is subject to the penalties set forth in subsection (2) of KRS~~
 19 ~~434.730 if such value is three hundred dollars (\$300) or more in any six (6) month~~
 20 ~~period]~~.

21 ➔Section 3. KRS 434.660 is amended to read as follows:

22 A person, business organization, or financial institution who is authorized by an issuer to
 23 furnish money, goods, services, or anything else of value upon presentation of a credit or
 24 debit card by a cardholder, or any agent or employee of such person, business
 25 organization, or financial institution, who, with intent to defraud the issuer, a
 26 participating party, the cardholder, or any other person, furnishes money, goods, or
 27 services or anything else of value upon presentation of a credit or debit card obtained or

retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired, or revoked is guilty of a Class A misdemeanor, if the value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is less than five hundred dollars (\$500), ~~does not exceed one hundred dollars (\$100) in any six (6) month period; and is guilty of~~ a Class D felony~~;~~ if such value is five hundred dollars (\$500) or more but is less than ten thousand dollars (\$10,000), or a Class C felony if such value is ten thousand dollars (\$10,000) or more exceeds~~one hundred dollars (\$100) in any six (6) month period~~.

→ Section 4. KRS 434.670 is amended to read as follows:

A person, business organization, or financial institution who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit or debit card by a cardholder, or any agent or employee of such person, business organization, or financial institution, who, with intent to defraud the issuer, a participating party, the cardholder, or any other person, fails to furnish money, goods, services, or anything else of value which he represents in writing to the issuer that he has furnished over a six (6) month period is guilty of a Class A misdemeanor~~;~~ if the difference between the value of all money, goods, services, or anything else of value actually furnished and the value represented to the issuer to have been furnished is less than five hundred dollars (\$500), ~~does not exceed one hundred dollars (\$100) in any six (6) month period; and is guilty of~~ a Class D felony if such value is five hundred dollars (\$500) or more but is less than ten thousand dollars (\$10,000), or a Class C felony if such value is ten thousand dollars (\$10,000) or more.

→ Section 5. KRS 434.690 is amended to read as follows:

(1) A person who receives money, goods, services, or anything else of value obtained in violation of KRS 434.650, knowing or believing that it was so obtained is guilty of a Class A misdemeanor, if the value of all money, goods, services, and other things

of value received in violation of this section over a six (6) month period is less than five hundred dollars (\$500), ~~does not exceed one hundred dollars (\$100) in any six (6) month period; and is guilty of~~ a Class D felony~~;~~ if such value is five hundred dollars (\$500) or more but is less than ten thousand dollars (\$10,000), or a Class C felony if such value is ten thousand dollars (\$10,000) or more exceeds ~~one hundred dollars (\$100) in any six (6) month period~~.

- (2) A person who possesses three (3) or more tickets for airline, railroad, steamship, or other transportation service, which tickets were obtained by the use of a stolen or forged credit or debit card is presumed to know that such tickets were so obtained.

➔ Section 6. KRS 514.030 is amended to read as follows:

- (1) Except as otherwise provided in KRS 217.181 or 218A.1418, a person is guilty of theft by unlawful taking or disposition when he unlawfully:

- (a) Takes or exercises control over movable property of another with intent to deprive him thereof; or
- (b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

- (2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is five hundred dollars (\$500)~~three hundred dollars (\$300)}~~ or more, in which case it is a Class D felony; or unless:

- (a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony;~~or~~
- (b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense; or

- (c) The value of the property is ten thousand dollars (\$10,000) or more, in

1 *which case it is a Class C felony.*

2 ➔ Section 7. KRS 514.040 is amended to read as follows:

- 3 (1) A person is guilty of theft by deception when the person obtains property or services
4 of another by deception with intent to deprive the person thereof. A person deceives
5 when the person intentionally:
- 6 (a) Creates or reinforces a false impression, including false impressions as to law,
7 value, intention, or other state of mind;
 - 8 (b) Prevents another from acquiring information which would affect judgment of
9 a transaction;
 - 10 (c) Fails to correct a false impression which the deceiver previously created or
11 reinforced or which the deceiver knows to be influencing another to whom the
12 person stands in a fiduciary or confidential relationship;
 - 13 (d) Fails to disclose a known lien, adverse claim, or other legal impediment to the
14 enjoyment of property which the person transfers or encumbers in
15 consideration for the property obtained, whether the impediment is or is not
16 valid or is or is not a matter of official record; or
 - 17 (e) Issues or passes a check or similar sight order for the payment of money,
18 knowing that it will not be honored by the drawee.
- 19 (2) The term "deceive" does not, however, include falsity as to matters having no
20 pecuniary significance or puffing by statements unlikely to deceive ordinary persons
21 in the group addressed.
- 22 (3) Deception as to a person's intention to perform a promise shall not be inferred from
23 the fact alone that he did not subsequently perform the promise.
- 24 (4) For purposes of subsection (1) of this section, a maker of a check or similar sight
25 order for the payment of money is presumed to know that the check or order, other
26 than a postdated check or order, would not be paid, if:
- 27 (a) The maker had no account with the drawee at the time the check or order was

1 issued; or

2 (b) Payment was refused by the drawee for lack of funds, upon presentation
3 within thirty (30) days after issue, and the maker failed to make good within
4 ten (10) days after receiving notice of that refusal. Notice of the refusal may
5 include a citation to this section and a description of this section's criminal
6 penalties and shall be deemed properly addressed when mailed to the address
7 printed or written on the check or sight order or provided by the drawer or
8 maker upon issuance of the check or sight order. The notice, if mailed, shall
9 be deemed received by the addressee seven (7) days after it is placed in the
10 United States mail. The notice may be sent by first-class mail if supported by
11 an affidavit of service setting out the contents of the notice, the address to
12 which the notice was mailed, that correct postage was applied, and the date
13 the notice was placed in the United States mail. A maker makes good on a
14 check or similar sight order for the payment of money by paying to the holder
15 the face amount of the instrument, together with any merchant's posted
16 reasonable bad check handling fee not to exceed fifty dollars (\$50) and any fee
17 imposed pursuant to subsection (5) of this section.

18 (5) If a county attorney issues notice to a maker that a drawee has refused to honor an
19 instrument due to a lack of funds as described in subsection (4)(b) of this section,
20 the county attorney may charge a fee to the maker of fifty dollars (\$50), if the
21 instrument is paid. Money paid to the county attorney pursuant to this section shall
22 be used only for payment of county attorney office operating expenses. Excess fees
23 held by the county attorney on June 30 of each year shall be turned over to the
24 county treasurer before the end of the next fiscal year for use by the fiscal court of
25 the county.

26 (6) A person is guilty of theft by deception when the person issues a check or similar
27 sight order in payment of all or any part of any tax payable to the Commonwealth

1 knowing that it will not be honored by the drawee.

2 (7) A person is guilty of theft by deception when the person issues a check or similar
3 sight order in payment of all or any part of a child support obligation knowing that it
4 will not be honored by the drawee.

5 (8) Theft by deception is a Class A misdemeanor unless the value of the property,
6 service, or the amount of the check or sight order referred to in subsection (6) or (7)
7 of this section is:

8 (a) Five hundred dollars (\$500)~~[three hundred dollars (\$300)]~~ or more but less
9 than ten thousand dollars (\$10,000), in which case it is a Class D felony; or

10 (b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C
11 felony.

12 ➔Section 8. KRS 514.050 is amended to read as follows:

13 (1) Except as provided in KRS 365.710, a person is guilty of theft of property lost,
14 mislaid, or delivered by mistake when:

15 (a) He comes into control of the property of another that he knows to have been
16 lost, mislaid, or delivered under a mistake as to the nature or amount of the
17 property or the identity of the recipient; and

18 (b) With intent to deprive the owner thereof, he fails to take reasonable measures
19 to restore the property to a person entitled to have it.

20 (2) Theft of property lost, mislaid, or delivered by mistake is a Class A misdemeanor
21 unless the value of the property is:

22 (a) Five hundred dollars (\$500)~~[three hundred dollars (\$300)]~~ or more but less
23 than ten thousand dollars (\$10,000), in which case it is a Class D felony; or

24 (b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C
25 felony.

26 ➔Section 9. KRS 514.060 is amended to read as follows:

27 (1) A person is guilty of theft of services when:

1 (a) The person intentionally obtains services by deception or threat or by false
2 token or other means to avoid payment for the services which he knows are
3 available only for compensation;

4 (b) The person intentionally obtains wireless communications services or access
5 to services by any of the following means:

6 1. Unauthorized interception of any electronic serial number, mobile
7 identification number, personal identification number, or like identifying
8 number;

9 2. Unauthorized interception of any cellular service or personal
10 communications service as terms may be defined in 47 C.F.R. parts 22
11 and 24 respectively;

12 3. Unauthorized interception of any similar telephone service; or

13 4. Use of deception, threat, or other means to avoid payment for the
14 services which the person knows are available only for charge or
15 compensation; or

16 (c) Having control over or unauthorized access to the use of the services of others
17 to which the person is not entitled, the person intentionally diverts the services
18 to the person's own benefit or the benefit of another not entitled thereto.

19 (2) Where compensation for services is ordinarily paid immediately upon the rendering
20 of the services, as in the case of hotels and restaurants, refusal to pay or absconding
21 without payment or offer to pay shall be prima facie evidence that the services were
22 obtained by deception as to intention to pay.

23 (3) In any prosecution for theft of gas, water, electricity, or other public service, where
24 the utility supplying the service had installed a meter or other device to record the
25 amount of service supplied, proof that:

26 (a) The meter or other device has been altered, tampered with, or bypassed in a
27 manner so as to prevent or reduce the recording thereof; or

(b) Service has been, after having been disconnected by the utility supplying service, reconnected without authorization of the utility shall be prima facie evidence of the intent to commit theft of service by the person or persons obligated to pay for service supplied through the meter or other device.

(4) Theft of services is a Class A misdemeanor unless the value of the service is:

(a) Five hundred dollars (\$500) [three hundred dollars (\$300)] or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or
(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

→ Section 10. KRS 514.070 is amended to read as follows:

(1) A person is guilty of theft by failure to make required disposition of property received when:

(a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and

(b) He intentionally deals with the property as his own and fails to make the required payment or disposition.

(2) The provisions of subsection (1) apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.

(3) An officer or employee of the government or of a financial institution is presumed:

(a) To know any legal obligation relevant to his criminal liability under this section; and

(b) To have dealt with the property as his own when:

1. He fails to account or pay upon lawful demand; or

2. An audit reveals a shortage or falsification of accounts.

(4) Theft by failure to make required disposition of property received is a Class A

1 misdemeanor unless the value of the property is:

- 2 **(a) Five hundred dollars (\$500)**~~[three hundred dollars (\$300)]~~ or more **but less**
 3 **than ten thousand dollars (\$10,000)**, in which case it is a Class D felony; **or**
 4 **(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C**
 5 **felony.**

- 6 (5) No person shall be convicted of theft by failure to make required disposition of
 7 property received when he or she has also been convicted of a violation of KRS
 8 522.050 arising out of the same incident.

9 ➔Section 11. KRS 514.080 is amended to read as follows:

- 10 (1) A person is guilty of theft by extortion when he intentionally obtains property of
 11 another by threatening to:

- 12 (a) Inflict bodily injury on anyone or commit any other criminal offense; or
 13 (b) Accuse anyone of a criminal offense; or
 14 (c) Expose any secret tending to subject any person to hatred, contempt, or
 15 ridicule, or to impair his credit or business repute; or
 16 (d) Use wrongfully his position as a public officer or servant or employee by
 17 performing some act within or related to his official duties, either expressed or
 18 implied, or by refusing or omitting to perform an official duty, either
 19 expressed or implied, in a manner affecting some person adversely; or
 20 (e) Bring about or continue a strike, boycott, or other collective unofficial action,
 21 if the property is not demanded or received for the benefit of the group in
 22 whose interest the actor purports to act; or
 23 (f) Testify or provide information or withhold testimony or information with
 24 respect to another's legal claim or defense.

- 25 (2) It is a defense to prosecution based on subsection (1)(b), (c), or (d) that the property
 26 obtained by threat of accusation, exposure, lawsuit, or other invocation of official
 27 action was claimed as restitution or indemnification for harm done in the

circumstances to which accusation, exposure, lawsuit, or other official action relates, or as compensation for property or lawful services.

- (3) Theft by extortion is a Class A misdemeanor unless the value of the property obtained is:

(a) Five hundred dollars (\$500)~~[three hundred dollars (\$300)]~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or

(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

➔Section 12. KRS 514.090 is amended to read as follows:

- (1) A person is guilty of theft of labor already rendered when, in payment of labor already rendered by another, he intentionally issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

- (2) For purposes of subsection (1) of this section, an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty days (30) after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal.

- (3) Theft of labor already rendered is a Class A misdemeanor unless the value of the labor rendered is:

(a) Five hundred dollars (\$500)~~[three hundred dollars (\$300)]~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or

(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

➔Section 13. KRS 514.110 is amended to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains, or disposes of movable property of another knowing that it has been stolen, or having reason to believe that it has been stolen, unless the property is received, retained, or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is a Class A misdemeanor unless:

(a) The value of the property is *five hundred dollars (\$500)*~~three hundred dollars (\$300)~~ or more *but less than ten thousand dollars (\$10,000)*, in which case it is a Class D felony;

(b) *The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony;*~~or unless:~~

(c)~~(a)~~ The property is a firearm, regardless of the value of the firearm, in which case it is a Class D felony; or

(d)~~(b)~~ The property is anhydrous ammonia, regardless of the value of the ammonia, in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.

➔Section 14. KRS 514.120 is amended to read as follows:

(1) A person is guilty of obscuring the identity of a machine or other property when he or she:

(a) Removes, defaces, covers, alters, destroys, or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark, including property marked with a Social Security number or motor vehicle operator's license number for identification purposes, upon any

1 automobile or other propelled vehicle, machine, or electrical or mechanical
2 device, or other property, including any part thereof, with intent to render it or
3 other property unidentifiable; or

4 (b) Possesses any automobile or other propelled vehicle, machine, or electrical or
5 mechanical device, or other property, including any part thereof, knowing that
6 the serial number or other identification number or mark, including property
7 marked with a Social Security number for identification purposes, has been
8 removed, defaced, covered, altered, destroyed, or otherwise obscured.

9 (2) Possession of any automobile or other propelled vehicle, machine, or electrical or
10 mechanical device, or other property, including any part thereof, on which the serial
11 number or any other distinguishing identification number or mark, including
12 property marked with a Social Security number or motor vehicle operator's license
13 number for identification purposes, has been removed, defaced, covered, altered,
14 destroyed, or otherwise obscured is prima facie evidence of knowledge of that fact.

15 (3) A person in possession of any property which is otherwise in violation of this
16 section may apply in writing to the Department of Kentucky State Police, through
17 any law enforcement agency in the county of his or her residence, for assignment of
18 a number for the property providing he or she can show that he or she is the lawful
19 owner of the property pursuant to the provisions of this section and KRS 16.200 and
20 500.090. If a number is issued in conformity with the provisions of this section and
21 KRS 16.200 and 500.090, then the person to whom it was issued and any person to
22 whom the property is lawfully disposed of shall not be in violation of these sections.
23 A person lawfully holding a certification issued pursuant to KRS 500.090 shall also
24 be deemed in compliance with this section. This section shall apply only when the
25 application has been filed by the defendant prior to arrest or authorization of a
26 warrant of arrest for the defendant by a court.

27 (4) Obscuring the identity of a machine or other property is a Class A misdemeanor

1 unless the value of the property is;

2 **(a) Five hundred dollars (\$500)**~~[three hundred dollars (\$300)]~~ or more **but less**
 3 **than ten thousand dollars (\$10,000)**, in which case it is a Class D felony; **or**

4 **(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C**
 5 **felony.**

6 ➔Section 15. KRS 506.120 is amended to read as follows:

7 (1) A person, with the purpose to establish or maintain a criminal syndicate or to
 8 facilitate any of its activities, shall not do any of the following:

9 (a) Organize or participate in organizing a criminal syndicate or any of its
 10 activities;

11 (b) Provide material aid to a criminal syndicate or any of its activities, whether
 12 such aid is in the form of money or other property, or credit;

13 (c) Manage, supervise, or direct any of the activities of a criminal syndicate, at
 14 any level of responsibility;

15 (d) Knowingly furnish legal, accounting, or other managerial services to a
 16 criminal syndicate;

17 (e) Commit, or conspire or attempt to commit, or act as an accomplice in the
 18 commission of, any offense of a type in which a criminal syndicate engages on
 19 a continuing basis;

20 (f) Commit, or conspire or attempt to commit or act as an accomplice in the
 21 commission of, any offense of violence;~~[or]~~

22 (g) Commit, or conspire or attempt to commit, or act as an accomplice in the
 23 commission of bribery in violation of KRS Chapters 518 or 521, or KRS
 24 119.205, 121.025, 121.055, 524.070, 156.465, 45A.340, 63.090, 6.080,
 25 18A.145, or 244.600;

26 **(h) Commit, or conspire or attempt to commit, or act as an accomplice in the**
 27 **commission of more than one (1) theft of retail merchandise with the intent**

1 to resell the stolen merchandise; or

2 (i) Acquire stolen retail merchandise for the purpose of reselling it where the
 3 person knew or should have known that the merchandise had been stolen.

4 (2) Whoever violates this section is guilty of engaging in organized crime, which shall
 5 be a Class B felony, unless the offense involves only the theft or acquisition of
 6 retail merchandise for the purpose or reselling it in which case it shall be a Class
 7 C felony.

8 (3) As used in this section "criminal syndicate" means five (5) or more persons, or, in
 9 cases of merchandise theft from a retail store for the purpose of reselling the
 10 stolen merchandise, two (2) or more persons, collaborating to promote or engage
 11 in any of the following on a continuing basis:

- 12 (a) Extortion or coercion in violation of KRS 514.080 or 521.020;
- 13 (b) Engaging in, promoting, or permitting prostitution or human trafficking in
 14 violation of KRS Chapter 529;
- 15 (c) Any theft offense as defined in KRS Chapter 514;
- 16 (d) Any gambling offense as defined in KRS 411.090, KRS Chapter 528, or
 17 Section 226 of the Constitution;
- 18 (e) Illegal trafficking in controlled substances as prohibited by KRS Chapter
 19 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or
 20 244, or in destructive devices or booby traps as defined in KRS Chapter 237;
 21 or
- 22 (f) Lending at usurious interest, and enforcing repayment by illegal means in
 23 violation of KRS Chapter 360.

24 ➔Section 16. KRS 532.356 is amended to read as follows:

- 25 (1) Upon a person's conviction and sentencing for any nonstatus juvenile offense,
 26 moving traffic violation, criminal violation, misdemeanor, or Class D felony
 27 offense, and, for the purposes of paragraph (b) of this subsection, any Class C

1 felony offense listed in subsection (3) of this section, the court shall impose the
 2 following sanctions in addition to any imprisonment, fine, court cost, or community
 3 service:

4 (a) Reimbursement to the state or local government for the person's incarceration,
 5 determined by the per person, per diem, expenses of each prisoner
 6 incarcerated by the respective local government, times the number of days he
 7 has spent or shall spend in confinement, plus any medical services received by
 8 the prisoner, less copayments paid by the prisoner. The convicted person's
 9 ability to pay all or part of the reimbursement shall be considered by the
 10 sentencing court in imposing the sanction; and

11 (b) Restitution to the crime victim as set out in KRS 439.563, 532.032, and
 12 532.033.

13 (2) In addition to any other penalty allowed by law, a court may declare the defendant
 14 ineligible to operate a motor vehicle for a period of up to sixty (60) days where the
 15 defendant is being sentenced for a conviction of KRS 514.030 involving the theft of
 16 gasoline or special fuels from a retail establishment and the defendant has been
 17 previously convicted of KRS 514.030 for a theft of gasoline or special fuels from a
 18 retail establishment. A retail establishment may post a sign at the location where the
 19 fuel is dispensed apprising the public of the sanctions available under this
 20 subsection.

21 (3) (a) In addition to any other penalty allowed by law, a court shall declare the
 22 defendant ineligible to operate a motor vehicle for the period of time that
 23 any amount of restitution ordered under this section remains unpaid, where
 24 the restitution is imposed as the result of the commission of the following
 25 offenses:

26 1. Section 1 of this Act;

27 2. Section 2 of this Act;

1 3. Section 3 of this Act;

2 4. Section 4 of this Act;

3 5. Section 5 of this Act;

4 6. Section 6 of this Act;

5 7. Section 7 of this Act;

6 8. Section 8 of this Act;

7 9. Section 9 of this Act;

8 10. Section 10 of this Act;

9 11. Section 11 of this Act;

10 12. Section 12 of this Act;

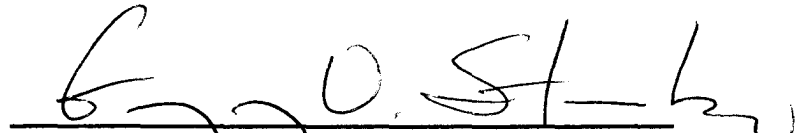
11 13. Section 13 of this Act;

12 14. Section 14 of this Act; or

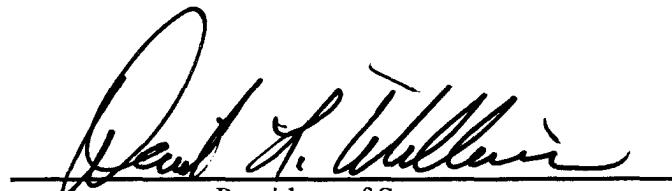
13 15. Section 15 of this Act.

14 (b) Upon motion by the defendant with proper notice to the office of the
 15 attorney who represented the Commonwealth at sentencing, the court may
 16 authorize the defendant to obtain the hardship license authorized under
 17 KRS Chapter 189A. The defendant shall be subject to the same operating
 18 restrictions and penalties for noncompliance as are set out for a hardship
 19 license in that chapter. The court may waive compliance with provisions of
 20 KRS Chapter 189A relating to alcohol treatment and ignition interlock
 21 installation for the purpose of authorizing issuance of a hardship license
 22 under this section.

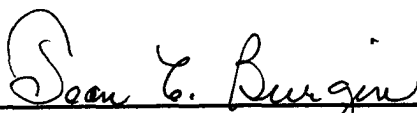
23 (4) Sanctions imposed by the sentencing court shall become a judgment of the court.
 24 Reimbursement of incarceration costs shall be paid by the defendant directly to the
 25 jailer in the amount specified by written order of the court. Incarceration costs owed
 26 to the Department of Corrections shall be paid through the circuit clerk.




Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date March 27, 2009